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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES MATTEO & SONS, INC.,

Defendant.

CIVIL ACTION NO. 02-2010-0006

COMPLAINT

1. The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint, alleging as set forth below. The address of Ruben Gomez, counsel for the Plaintiff, United States of America, is United States Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611. The name and address of the Defendant is James Matteo & Sons, Inc., 1692 Crown Point Road, Thorofare, New Jersey 08086.

### NATURE OF THE ACTION

2. This is a civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9607, for recovery of response costs incurred and to be incurred in connection with the Matteo & Sons, Inc. Superfund Site ("Site") in West Deptford Township, Gloucester County, New Jersey.

### JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c), and Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b), because the releases or threatened releases of hazardous substances that give rise to this claim occurred in this district and because the Site is located in this district.

### DEFENDANT

5. The Defendant in this action is James Matteo & Sons, Inc. (hereinafter, "Matteo").

6. Matteo currently operates an active scrap metal recycling facility at the Site. In addition to its continuing scrap metal recycling operations, Matteo has previously operated an unregistered junkyard and landfill at the Site.

7. Matteo has owned the Site since March 15, 1961, and is still the current owner of the Site.

FACTS GIVING RISE TO LIABILITY

8. The Site encompasses approximately 80 acres in West Deptford Township, Gloucester County, New Jersey. The Site is approximately 1.2 miles from the Delaware River, at the confluence of Woodbury Creek and a waterway named Hessian Run, and is generally designated in local property records as Block 128, Lot 2 and Block 325, Lot 2.

9. During Matteo's ownership/operation of the Site, the Defendant disposed or allowed the disposal of waste and hazardous substances that generated approximately 260,000 square feet of landfill, approximately 224,000 square feet of crushed battery casings, and lead and other contamination throughout the property.

10. From approximately September 2000 to October 2002, the State of New Jersey Department of Environmental Protection ("State") conducted a remedial investigation of the Site. The results confirmed that a variety of hazardous substances were present at the Site. Specifically, the State identified elevated levels of lead in the soil throughout the battery casing burial area, the soil in the landfill, and the sediments in the Site's adjoining waterway. The State also identified the presence of polychlorinated biphenyls ("PCBs"), antimony, copper, arsenic, cadmium, mercury, nickel, and zinc, as well as polycyclic aromatic hydrocarbons ("PAHs") and volatile organic compounds ("VOCs").

11. In June 2005, the State requested that EPA undertake a CERCLA response action at the Site.

12. Soil sampling conducted by EPA in April 2005 confirmed the results of previous State investigations. Additional soil sampling by EPA in 2005 and 2006 also identified elevated levels of lead in soil both inside and outside the trailer park that adjoins the Site's southern border.

13. On March 15, 2006, a temporary, high visibility fence and warning signs were installed near the property boundary between the Site and the trailer park.

14. On May 4, 2006, EPA issued an Administrative Order on Consent to Matteo. The Order required that Matteo install a permanent chain-link fence to restrict access to certain contaminated areas of the Site. To facilitate the fence installation and mitigate direct contact and contaminant migration, approximately 425 tons of contaminated soil were excavated for off-site disposal.

15. The Site was included on the National Priorities List on September 27, 2006.

#### SPECIFIC ALLEGATIONS

16. Matteo is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

17. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

18. The Defendant falls within one or more of the classes of liable parties in Section 107(a), 42 U.S.C. § 9607(a).

19. At all times relevant to this action, there were "releases" or "threatened releases" of hazardous substances into the environment at or from the Site within the

meaning of Sections 101(22), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9607(a).

20. Lead, PCBs, antimony, copper, arsenic, cadmium, mercury, nickel, and zinc are "hazardous substances" within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14) and 9607(a), as well as 40 C.F.R. 302.4, and were released or threatened to be released at the Site.

21. During the time period that Defendant owned the Site, hazardous substances were "disposed" of within the meaning of Section 101(29) of CERCLA, 42 U.S.C. § 9601(29).

22. The release or threatened release of hazardous substances at the Site has caused the United States to incur costs for "response," as defined in Sections 101(23), 101(24), and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23), 9601(24), and 9601(25).

23. EPA has incurred over \$967,400 in response costs with respect to the Site as of the date of the filing of this Complaint.

24. All of these response costs were incurred in a manner not inconsistent with the National Contingency Plan, promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300.

25. The United States has not been reimbursed for any of the response costs the United States incurred at the Site. The United States will continue to incur response costs at the Site in the future.

CLAIM FOR RELIEF

26. The allegations set forth in paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section –

- (1) the owner and operator of a . . . facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who by contract, agreement or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . , and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities . . . selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for --

(A) all costs of removal or remedial action incurred by the United States Government or a State . . . not inconsistent with the national contingency plan . . . .

28. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the Defendant is liable to the United States for all costs incurred and to be incurred by the United States with respect to the Site, including enforcement costs and interest on all such costs. The United States seeks recovery of all of its response costs incurred and to be incurred in

connection with response actions at the Site. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States seeks a declaratory judgment for its future costs to be incurred with respect to the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that this Court:

1. Order the Defendant to pay the United States its past response costs in connection with the Site;
2. Enter a declaratory judgment that the Defendant is liable for the United States' response costs incurred and to be incurred in connection with the Site;
3. Award the United States its costs and fees; and,
4. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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/s/ Ruben Gomez  
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